

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08-CR-00118-RJC

USA

v.

DANIEL GUERRERO-LECO

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ORDER


**THIS MATTER** is before the Court upon remand from the United States Court of Appeals for the Fourth Circuit, (Doc. No. 33: Opinion and Judgment), for consideration in light of its decision in United States v. Chester, 628 F.3d 673 (4th Cir. 2010). The Court ordered the parties to provide additional briefing, (Doc. No. 35), and this matter is ripe for disposition.

The defendant pled guilty to possession of a firearm by an illegal alien, in violation of 18 U.S.C. § 922(g)(5), (Doc. No. 14: Plea Agreement at 1), but reserved his right to appeal the Court's denial of his Motion to Dismiss pursuant to the Second and Fifth Amendments, (Doc. No. 13: Order). The Court sentenced the defendant to twenty-four months' imprisonment followed by three years' supervised release. (Doc. No. 26: Judgment). On appeal, the Judgment was vacated and the case was remanded for the Court to analyze § 922(g)(5) according to Chester. (Doc. No. 33: Opinion at 3). Since that time, the Fourth Circuit has found that the statute is constitutional under the Second and Fifth Amendments. United States v. Carpio-Leon, 701 F.3d 974, 982-83 (4th Cir. 2012). Thus, the defendant's challenge is without merit.

**IT IS, THEREFORE, ORDERED** that Judgment shall be entered imposing the terms and conditions of the original sentence.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, to the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: October 9, 2014

  
Robert J. Conrad, Jr.  
United States District Judge

